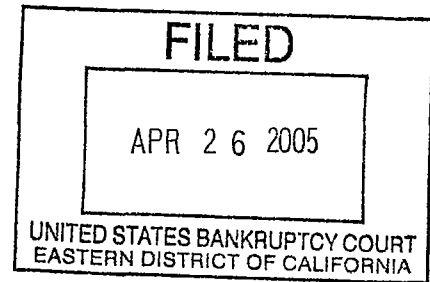


4



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re	)	Case No. 05-20699-C-7
	)	
KATHERINE H. CLUM,	)	DC No. MOH-1
	)	
Debtor.	)	

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
ON MOTION TO AVOID LIEN**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(K).

Findings of Fact

On March 21, 2005, debtor filed a motion, notice of motion, and declaration, seeking to avoid a nonpossessory, nonpurchase-money security interest in household goods in

1  
2 favor of Beneficial California" ("creditor").

3 In reviewing debtors' schedules, the court observes  
4 that debtor claimed exempt furniture in the aggregate value  
5 of \$1,000. Debtor did not provide a description of the  
6 specific property being exempted nor a specific value for  
7 each item of property.

8 Additionally, in reviewing debtor's certificate of  
9 service, the court notes that debtor served the creditor at  
10 the following two address: 1805 Hilltop Drive, Suite 101,  
11 Redding, CA 96002 and 961 Weigel Drive, Elmhurst, IL 60126.

12 Conclusions of Law

13 A. DEBTOR'S SCHEDULES

14 The Ninth Circuit Court of Appeals has established the  
15 standard for scheduling assets:

16 [I]t is important that trustees and  
17 creditors be able to determine precisely  
18 whether a listed asset is validly exempt  
19 simply by reading a debtor's schedules.  
Given that the debtor controls the  
schedules, we construe any ambiguity  
therein against him.

20 In re Hyman, 967 F.2d 1316, 1319 n.6 (9th Cir. 1992). The  
21 debtors' schedules fail to comply with this norm. Since the  
22 debtors seeks the benefits of the Code, it is incumbent upon  
23 them to comply in good faith with the requirements of the  
24 Code by amending their schedules as is appropriate under the  
25 applicable standards. See In re Mohring, 142 B.R. 389,  
26 394-96 (Bankr. E.D.Cal. 1992), aff'd, 153 B.R. 601 (Bankr.  
27 9th Cir. 1993), aff'd, 24 F.3d 247 (9th Cir. 1994).

28 Here, "debtor's generic listing of 'household goods' is  
unquestionably ambiguous ... when the state's exemptions are

1  
2 on a per item basis, detailed itemization is required. Id.  
3 at 395; see Official Form 6. One cannot tell from debtor's  
4 Schedule C whether there are items worth more than the  
5 allowed exemption in the amount of \$450.00. Id. at 396.

6 B. DEBTOR'S CERTIFICATE OF SERVICE

7 Federal Rule of Bankruptcy Procedure 7004(b)(3)  
8 provides in pertinent part:

9 Except as provided in subdivision(h), in  
10 addition-to the methods of service  
11 authorized by Rule 4(e)-(j) F.R.Civ.P.,  
12 service may be made within the United  
13 States by first class postage prepaid as  
14 follows... Upon a domestic or foreign  
15 corporation or upon a partnership or  
16 other unincorporated association, by  
17 mailing a copy of the summons and  
18 complaint to the attention of an  
19 officer, a managing or general agent, or  
20 to any other agent authorized by  
21 appointment or by law to receive service  
22 of process and, if the agent is one  
23 authorized by statute to receive service  
24 and the statute so requires, by also  
25 mailing a copy of the defendant.

26 Fed. R. Bank. P. 7004(b)(3).

27 Debtor's service of motion does not comply with the  
28 requirement to serve the motion to the attention of an  
officer or other agent authorized as provided in Rule  
7004(b)(3). Beneficial California, Inc. v. Villar (In re  
Villar), 317 B.R. 88, 93 (9<sup>th</sup> Cir. BAP 2004).

The motion will be denied without prejudice. An  
appropriate order will issue.

Dated: April 26, 2005

  
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Katherine Clum  
P.O. Box 991693  
Redding, CA 96099-1693

John C. Lyman  
948 11<sup>th</sup> Street #16  
Modesto, CA 95354

Linda Schuette  
P.O. Box 743  
Palo Cedro, CA 96073-743

Beneficial California  
1805 Hilltop Drive, Suite 101  
Redding, CA 96002

Beneficial California Inc  
961 Weigel Drive  
Elmhurst, IL 60126

Office of the United States Trustee  
United States Courthouse  
501 "I" Street, Suite 7-500  
Sacramento, CA 95814

Dated: 4.29.05

Deft

Deputy Clerk